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Badges of Dishonor

On a desolate stretch of the Rio Grande, two Border Patrol agents chased a fleeing suspect and opened fire, wounding him from behind. But they didn't arrest him, and they didn't report the shooting to their supervisors. In fact, they covered it up. So why are they being celebrated as heroes?

by [Pamela Colloff](#)

Before the case of Border Patrol agents Ignacio “Nacho” Ramos and Jose Alonso Compean became a cause célèbre—that is, before there were calls for congressional hearings, high-level resignations at the Department of Justice, and presidential pardons—it almost didn't make the newspaper at all. The facts of the story might never have come to light if not for a phone call between two middle-aged women who had grown up together in a village in Mexico. In late February 2005 Macaria Aldrete-Davila called her old friend Gregoria Toquinto from her home in Chihuahua and said that her son had crossed into the United States illegally near the West Texas town of Fabens. Border Patrol agents had pursued him, and he had fled on foot. An agent had shot him in the backside as he ran from them, toward the Rio Grande. Her son had managed to limp back to Mexico, but he still had a bullet lodged in his groin and was in need of medical attention. Gregoria, who was living in El Paso, listened to her friend's story. Then she called her son-in-law, who happened to be a Border Patrol agent.

So began a Department of Homeland Security internal investigation that uncovered what appeared to be a straightforward case of two federal agents shooting at a man as he ran away and then concealing their actions. Investigators found that Osvaldo Aldrete-Davila had put his hands in the air and tried to surrender, but Compean—instead of apprehending him—had swung at him with the butt of his shotgun. Aldrete-Davila had bolted, and as he ran, Compean and Ramos had fired at him fifteen times, with Compean stopping to reload his Beretta as he tried to hit his mark. Neither agent announced the shooting over the radio or informed his supervisor of what had happened; the official report about the pursuit made no mention of their firing their weapons. And rather than secure the area so that evidence could be preserved, Compean had retrieved most of his spent shell casings and tossed them into a ditch. Only when questioned by investigators a month later did he offer the explanation that he and Ramos had acted in self-defense; Aldrete-Davila had been “pointing something shiny” that “looked like a gun.” A federal jury, which heard both agents' testimony, rejected their version of events and convicted them on five out of six criminal charges, including assault, obstruction of justice, and civil rights violations.

That might have been the last word on the case, except that when talk radio shows, CNN's *Lou Dobbs Tonight*, and conservative blogs picked up the story, they glossed over nearly all of the most damning facts presented at trial. Set against the backdrop of the national debate over immigration, a new narrative emerged, one in which Ramos and Compean were recast as “American heroes,” unjustly persecuted by a government that cared more about amnesty for

illegal immigrants than about border security. The story line advanced by pundits and bloggers focused on Aldrete-Davila's own illegal activity, since he had been ferrying a large load of marijuana when he had crossed paths with Ramos and Compean. (The agents had not known this when they fired their weapons; the marijuana was discovered only after the shooting, in a van Aldrete-Davila had abandoned when he fled.) The jury had taken this into consideration and had still chosen to hand down guilty verdicts. But the stark contrast between Aldrete-Davila's fate and that of Ramos and Compean's inspired outrage. Two Border Patrol agents were being sent to prison, while a dope smuggler—who had been granted immunity by federal prosecutors in exchange for his testimony—walked free.

This seemingly perverse logic provoked a backlash from conservatives who had grown frustrated with the Bush administration's handling of border issues, prompting Ann Coulter to pen an acid assessment of the case titled "No Drug Smuggler Left Behind!" U.S. attorney Johnny Sutton, a Bush appointee, was excoriated for prosecuting the agents—and even branded "Johnny Satan" by Houston talk radio show host Edd Hendee—while bloggers hailed Ramos and Compean as "political prisoners" in a modern-day Dreyfus affair. Lou Dobbs opined about the case on more than one hundred broadcasts, calling it an "outrageous miscarriage of justice" and "an appeasement of the Mexican government." Anti-illegal immigration activists like the Minuteman Civil Defense Corps staged rallies and raised money for the agents' defense funds, and more than 370,000 Americans signed an online petition demanding presidential pardons. Republican congressmen known for their law-and-order credentials argued on the House floor that the agents were guilty of nothing more than "procedural violations" for failing to report the shooting, and U.S. representative Ted Poe, of Humble, commended them for their actions. "We ought to give both of these Border Patrol agents medals and send them out there to bag another one," he said.

Entangled in the heated politics of illegal immigration, the facts of what had actually happened down by the river were cast aside, and the victim's identity as a drug smuggler overshadowed the misconduct of the officers who had shot at him. Of the nearly 14,000 federal agents who patrol U.S. borders, it was Ramos and Compean who were held up as heroes. In an interview this summer, and in handwritten letters from prison that followed, Ramos was thoughtful and articulate about his time with the Border Patrol, longing for the days when he kept watch over the Rio Grande instead of a seven-by-thirteen-foot cell. Yet he was unrepentant about his actions on February 17, 2005. It was his bullet that had permanently maimed, and nearly killed, Aldrete-Davila, but Ramos felt that any prison time for him and his fellow agent was unwarranted. "If anything, Compean and I should have gotten an administrative punishment—if that," he told me. "As for Aldrete-Davila, you know what? He got what he deserved."

Thirty-two miles southeast of El Paso, Fabens hardly looks like the kind of place that could inspire a national media storm. The Wrangler jeans factory, once its biggest employer, moved to Costa Rica nearly two years ago, and now Fabens is just another fading West Texas town. Roosters crow in the heat of the afternoon; dust devils twist down Main Street. The train rattles by every now and then, on its way elsewhere. At lunchtime, farmers rest their white straw hats beside them at Margarita's Café, trading news over warm bowls of *caldo*. Otherwise, the town is quiet. South of the blinking red stoplight, Fabens reverts to farmland, and cotton fields and pecan orchards stretch out for miles toward the Rio Grande. The jagged blue contours of mountains rise in the distance, across the river in Chihuahua—a constant reminder, from any vantage point in town, that Mexico is always near.

Ignacio Ramos arrived in Fabens as a recruit in 1995, when the local Border Patrol station was staffed by just twelve agents. (By the time Aldrete-Davila was shot a decade later, the number of agents had grown to more than eighty.) Fabens was transitioning from a quiet spot on the river into a busy crossing point, an unintended consequence of an initiative that the Border Patrol had launched two years earlier. Operation Hold the Line had succeeded in stemming the flow of illegal immigrants into El Paso, but it had not ended the problem. Human traffic had only shifted away from the city, moving southeastward to border towns like Socorro, San Elizario, and Fabens. As the tide of people and narcotics moved in, Ramos—and later Jose Alonso Compean, who was assigned to the Fabens station as a recruit in 2000—“worked the line,” patrolling the river for illegals and dope. Ramos would sometimes conduct surveillance for hours, concealed behind brush or in fields that had grown high with cotton. “I would have guys drop me off and leave me out there, and I would hide in the bushes or trees or canals,” he wrote to me from prison. “Sometimes it paid off, sometimes it wouldn’t, but it’s what kept the job interesting and a thinking game, as well. You were always trying to be a step ahead, or at least even with the dopers.”

Ramos, who is 38, and Compean, who is 7 years his junior, had followed nearly identical paths into the Border Patrol. Growing up in working-class neighborhoods on the east side of El Paso, they had each been the first in their families to graduate from high school. Both had dabbled in college and then joined the military. Both had eloped with their longtime girlfriends and had three children. Ramos coached Little League; Compean, T-ball. But for all that they had in common, they could not have been less alike. Ramos, who was tall and well built, was a seasoned agent who liked to do things his way, shrugging off paperwork and butting heads with his supervisors over Border Patrol policies that he felt reined him in. Compean, who was five feet four and heavyset, was quiet and reserved. Working the line—which required him and Ramos to keep a high profile on the river to “push back” would-be immigrants—could be tedious, but catching dope smugglers was exhilarating and earned them bragging rights around the station. (Compean’s wife, Patty, had filled a photo album with Polaroids of him posing beside narcotics loads that he had helped intercept.) According to one colleague, Ramos and Compean focused on finding narcotics to the exclusion of illegals and called themselves “the drug shift.”

One such shift fell on February 17, 2005, and for Compean, it had started off slowly. Local smugglers usually moved dope the same way: Backpackers would carry sacks of marijuana across the river—in Fabens, the water is shallow enough to walk across—and load them into empty vehicles that traffickers had left on the U.S. side. Drug mules would then cross over from Mexico and drive the loads to nearby stash houses. Though marijuana was smuggled through the area nearly every day, that morning had passed without any unusual activity. According to trial transcripts and Department of Homeland Security investigative reports, a break in the monotony came early that afternoon: Sensors were tripped at a location known for drug trafficking that the Border Patrol called Area 76. Squinting into his binoculars from his post on the Rio Grande, Compean observed a van speeding away. “Did you guys copy?” he called over the radio. “There is a blue van leaving at 76, going pretty quick.”

A rookie agent named Oscar Juarez was patrolling the levee by the river when he heard Compean’s radio transmission. Though he was busy pushing back a large group that had

gathered on the opposite side of the river, he was eager to get a drug bust under his belt, and he drove off to look for the van. He caught up with the Ford Econoline just as it reached town and fell in behind it, switching on his overhead lights. But instead of pulling over, the van suddenly turned around and headed south. Ramos, who had interrupted his lunch at the station to join the pursuit, took the lead. “It’s close,” Juarez radioed as they moved in, speeding down farm roads to the river. “We’ve got this baby.”

As they approached the Rio Grande, the pavement yielded to dirt, dead-ending at a drainage canal that agents affectionately call Shit Ditch. The driver, Osvaldo Aldrete-Davila, jumped out of his van as Ramos and Juarez closed in on him. Compean, who had followed the progress of the chase over the radio, was waiting on the south side of the ditch, blocking Aldrete-Davila’s path back to Mexico. As Aldrete-Davila dashed through the sewage water away from his pursuers, Compean pointed his shotgun at the tall, gangly 24-year-old and ordered him to stop. (According to Aldrete-Davila, the agent said, “*¡Párate, mexicano de mierda!*” or “Stop, you Mexican shit!”) He raised his hands, which were empty.

Then Aldrete-Davila and Compean both heard another agent yell, “Hit him!” (Ramos and Juarez, the only other people at the scene, would later deny having said this.)

“Take it easy, man,” Aldrete-Davila implored, hands still in the air. “Take it easy. No me pegues.” (“Don’t hit me.”)

Compean would later testify that he had tried to use the butt of his shotgun to push Aldrete-Davila back. (“He put his hands up, but to me, it looked like he was coming at me,” Compean said on the stand.) Whatever his intentions, he swung the butt of his shotgun at Aldrete-Davila, who dodged it. The agent lost his footing and fell face-first into the ditch, dropping his weapon.

Seeing his opening, Aldrete-Davila bolted toward the river, a little more than a hundred yards away. (Compean later claimed to have climbed out of the ditch and tackled him before he broke free again, although no other witness corroborated that account.) As Aldrete-Davila sprinted across the last stretch of American soil, Compean, who had never fired his gun in the line of duty, pulled out his .40-caliber pistol and started shooting. When he missed, he reloaded and tried again, firing a total of fourteen times. Aldrete-Davila kept running, and as he approached the river’s edge, Ramos—who had crossed the ditch to come to his colleague’s aid—fired his first and only shot. The force of the bullet, which entered Aldrete-Davila’s left buttock, knocked him to the ground.

Aldrete-Davila lay on the riverbank, bleeding. He waited for a moment, thinking the two agents were going to arrest him. When he realized that they were not coming, he stood up and limped through the ankle-deep water back to Mexico. Ramos and Compean holstered their weapons and walked away.

Border Patrol agents had begun arriving, gathering near the abandoned Econoline. They included field operations supervisor Jonathan Richards, the most senior agent at the scene, who had grown concerned about the lack of radio communication and had left the station to check on the pursuit. Ramos eventually joined the group, breathing hard, and got ribbed by the other agents for being out of shape. They would later remember that he had seemed agitated. “Hey, Nacho, settle down,” joked Richards. “You’re acting like this is your first load.”

“It’s been a long time,” Ramos said. “I’m fine. It’s just the adrenaline.”

Ramos knew the protocol: A Border Patrol agent who fires his weapon is required to inform a supervisor within an hour. (Border Patrol agents are trained to shoot to kill, not to maim.) Yet as he talked to Richards, he never mentioned that he and Compean had just shot at a suspect fifteen times. Ramos said only that Compean had fallen while he was trying to apprehend the van’s driver and had gotten dirt thrown in his eyes. Richards called out to Compean, who was standing at a distance on the levee, and asked if he was all right. The agent assured him that he was, except for a few cuts on his hand and face, and said nothing about the shooting. Before leaving the area, Compean stooped down to pick up nine of his spent shell casings and tossed them in the ditch.

On his way to the station to write his report, Compean stopped to talk to Arturo Vasquez, a more junior agent, who asked what had happened. “That little bitch took me to the ground and threw dirt on my face,” Vasquez recalled Compean saying. Providing no further explanation, Compean added: “I had to fire some rounds.” He asked Vasquez, who was headed back to the levee, to look for the five remaining spent shell casings—which Compean had been unable to find—since he needed to return to the station. Vasquez knew that the scene of a shooting was supposed to be left undisturbed for the Sector Evidence Team, but in deference to his superior, he agreed.

Back at the station, Compean washed up and ran into Richards as he was coming out of the restroom. He had a cut on his hand that had drawn blood. Richards asked him if he had been assaulted by the driver, and Compean denied that he had. “No, I’m okay. Nothing happened,” the agent said. “I just hurt my hand when I fell down, that’s all.”

The van turned out to contain an impressive cache: Nine burlap sacks stacked in the back held a total of 743 pounds of marijuana, estimated by the DEA to be worth \$594,400. (Loads that size were not unusual; from January of the previous year through mid-March of 2005, agents at the Fabens station made 155 narcotics seizures, netting a total of 43,703 pounds of marijuana and a small amount of cocaine.) On paper, the day had been an unmitigated success for Ramos and Compean. The seizure report, which Compean had written that afternoon, made no mention of the agents’ having fired their weapons. In fact, the two-page document devoted just one sentence to the entire chain of events that had transpired from the time that Aldrete-Davila had failed to pull over to the moment that he had fled home across the Rio Grande. It read, simply: “The driver was able to abscond back to Mexico.”

Two weeks later, a Border Patrol agent stationed in Willcox, Arizona, told his supervisor that he had learned of an unreported shooting outside El Paso in which agents were said to have fired at an unarmed Mexican national. He had heard about the incident from his mother-in-law, who knew the victim’s mother. The Department of Homeland Security’s oversight branch, the Office of Inspector General, launched a criminal investigation the next day and assigned Special Agent Christopher Sanchez to the case. The ex-Marine was given few facts to work with other than the date and general location of the shooting, but recordings of the day’s radio traffic led him to Oscar Juarez. He divulged that Ramos and Compean had pursued a man to the river on the afternoon in question, though otherwise he remained tight-lipped. He never mentioned seeing the altercation by the ditch or the fact that he had witnessed the shooting while standing by the van. (“I didn’t want to be the snitch,” Juarez later testified.)

A break in the investigation came on March 11, when Sanchez reached Aldrete-Davila by phone and discovered that the most significant piece of evidence in the case—the bullet that had struck him—was still intact. Aldrete-Davila did not have the money to have it removed, and he had endured the previous three weeks with the bullet still lodged in his groin. His urethra had been severed, and only a crude rubber tube, which connected his bladder to a plastic bag, allowed him to urinate. Sanchez explained that the bullet itself could make the case; ballistics testing could possibly pinpoint which agent's weapon had fired it once the slug was removed and entered into evidence. But Aldrete-Davila refused to come to El Paso to have the operation performed, convinced that it was a ruse to lure him across the border so that authorities could arrest him. He would cooperate with the investigation, he said, only if he were given a written guarantee that he would not be prosecuted.

This left the U.S. attorney's office with two bad options: grant immunity to a drug smuggler, or allow Border Patrol agents who had shot at a man while he was running away and then concealed their conduct to go unpunished. Although Aldrete-Davila admitted to driving the load of marijuana, federal prosecutors did not think they had a viable case against him. No evidence tied him to the crime, and his phone conversation with Sanchez would not have been admissible at trial. Without a suspect in custody, the case had never been treated as an active investigation; the van had not initially been analyzed for fingerprints, and the marijuana had been destroyed. Any case brought against him—if he could be extradited from Mexico—would have to rely on the testimony of the two agents, who the prosecution's own evidence showed were hardly credible witnesses. So on March 16, Sanchez presented paperwork to Aldrete-Davila at the American consulate in Juárez, granting him immunity to testify about his actions on the day of the shooting. ("When you cast a play in hell, you don't get angels as witnesses," assistant U.S. attorney Debra Kanof later warned the jury.)

The bullet was removed by Army doctors at Fort Bliss, and ballistics tests showed that it had been fired from Ramos's handgun, which investigators had taken under the guise of performing a firearms audit. That night, federal agents arrested Ramos and Compean at their homes on assault charges.

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Not until his arrest, a month after the shooting, did Compean claim that Aldrete-Davila had had a gun. He had never mentioned the weapon before—not when he stopped to talk to Vasquez about his missing shell casings and not when he confided in another agent, David Jacquez, that he had fired at the van's driver. Yet when he sat down to talk to investigators, he said that he had acted in self-defense. (Ramos requested a lawyer and invoked his right to remain silent.) "We tumbled and wrestled for a little bit," Compean wrote in a sworn statement. "I got some dirt in my eyes and he got up and started running back south towards Mexico. When he was running south he was pointing something shiny with his left hand. It looked like a gun. This is when I started shooting." He had suspected that the driver had been injured: "Nacho might have hit him . . . When we saw him climbing out of the river on the Mexican side, the alien looked like he was limping." But he had not reported the shooting, he wrote, because he was afraid he "was going to get in trouble." Before signing the statement, he added that he was unsure if the driver had

actually been armed: “My intent was to kill the alien because I thought he had a gun, but I never really saw for certain that he had a gun.”

The national media had not yet caught wind of the case when it went to trial in February 2006, and except for a few local reporters and relatives, it was sparsely attended. Around the federal courthouse in El Paso, it was jokingly referred to as “the case of *las comadres*” (“the case of the girlfriends”), since the shooting had become public knowledge only by virtue of a phone call between two female friends. Ramos and Compean were tried together; both agents would assert that Aldrete-Davila had turned and pointed a shiny object at them as he ran to the river. But from the start, the prosecution chipped away at the idea that either defendant had actually seen a gun or feared for his life. Three agents—Juarez, Vasquez, and Jacquez—accepted proffer letters, which shielded them from prosecution, in exchange for their testimony. The trial revealed that the defendants had not tried to take cover during the shooting or warned other agents who arrived at the scene afterward not to stand out in the open. Luis Barker, the former chief of the Border Patrol’s El Paso sector, described a meeting with Compean in which he had protested his suspension after his arrest; the agent had given a detailed account of the shooting but never mentioned a gun. And while the defense’s theory rested on the notion that Aldrete-Davila had been pointing something shiny with his left hand, as both agents claimed, prosecutors showed that he was right-handed.

On the stand, Compean tried to disavow the most damaging parts of the sworn statement he had made after his arrest. He had never thought that Ramos’s bullet had struck Aldrete-Davila—“That’s not what I meant to put down,” he said—and he had never asked Vasquez to pick up his spent shell casings. (“It was two o’clock, one-thirty, in the morning” when he wrote his statement, he told the jury.) Even harder to explain was why he and Ramos had failed to report the shooting, if not for the simple reason that they felt they had something to hide. Both were experienced agents who were well versed in Border Patrol policy; Compean was a field training officer who had schooled Fabens’s greener agents, and Ramos, a former firearms instructor, was a member of the Sector Evidence Team, which examined crime scenes so that investigators could determine whether agents had been justified in firing their weapons. Yet Ramos testified that he had not informed his superiors about the incident because he “assumed it had been reported by somebody.” (He could not explain why, then, supervisors had never pressed him for further details or called the Sector Evidence Team.) Compean claimed that he had not reported the shooting because he did not think he would be believed. He had retrieved his spent shell casings for “no reason,” he said, adding, “I just wasn’t thinking. I just—I just saw them there, and I picked them up.”

Defense attorneys argued that these were administrative violations that did not amount to criminal behavior and tried to persuade the jury that Aldrete-Davila had been armed. As they saw it, the entry point of the bullet on the left side of his buttock proved that he had been turned at an angle—as if he were extending his arm back to point a weapon—when he was shot. The orthopedic surgeon who had removed the bullet would say only that he could not rule out the possibility. The defense had less success reconciling the contradictions in the agents’ testimony. Ramos claimed that he had heard gunfire while crossing the ditch and then found Compean lying on the ground as if wounded—a scenario that, if true, helped justify his shooting at the fleeing suspect. But Compean testified that he had stood up from a kneeling position after firing his gun, not fallen flat on his back. In closing arguments, Ramos’s attorney, Mary Stillinger, tried to

establish reasonable doubt by emphasizing that Aldrete-Davila was “the only government witness that can testify that he did not have a gun.” (Oscar Juarez had not been able to see past the levee, where Aldrete-Davila was shot, to know if he had pulled a weapon.) “Everything depends on the credibility of Osvaldo Aldrete-Davila,” Stillinger said. “Are you going to believe the admitted drug trafficker, or are you going to believe the agents?”

In the end, the case came down to the credibility of Ramos and Compean, whom the jury decided to convict on five out of six charges, rejecting only the most serious one: assault with intent to commit murder. On October 19, 2006, U.S. district judge Kathleen Cardone sentenced them to eleven and twelve years, respectively. Strict sentencing guidelines left her little latitude since one charge—discharge of a firearm in commission of a crime of violence—carried a mandatory ten-year term. The jury hadn’t known the penalties for each charge when it rendered its verdict, and three jurors would later sign affidavits for the defense saying that they had been pressured to vote with the majority at the end of the two-and-a-half-week-long trial; they had been holdouts to acquit on the assault and civil rights charges, though not on obstruction of justice. (The U.S. attorney’s office later issued a statement that read, “The jurors were polled in open court immediately after announcing their verdicts and all said without hesitation or equivocation that the verdicts were theirs.”) Prosecutors had offered plea deals to the defendants before trial, including an 18-month term for Ramos and 21 months for Compean, if they would plead guilty to obstruction of justice charges. It was a package deal that both men had to take and which they had declined. “It was simply the principle of the whole thing,” Ramos wrote to me. “I could have never lived that down.” (Compean, as well as Aldrete-Davila, declined to be interviewed for this article.) Ramos’s wife, Monica, put it more bluntly: “My husband was facing forty years, and they offered him eighteen months. Wouldn’t a guilty person take that?”

A female juror, who agreed to talk to me on condition of anonymity, saw things differently. “We didn’t believe they had acted in self-defense,” she said. “I think Compean got mad and started shooting.” As for Ramos: “He was a marksman, and I think he knew he hit the alien. That’s why he only fired once.” During deliberations, she said, the jury had weighed the fact that the victim had been transporting a large load of marijuana. “We agreed that we weren’t trying the alien for what *he* did,” she recalled. “That wasn’t the case we were given.”

Two months before Ramos and Compean were set to be sentenced, Lou Dobbs introduced the case to a national audience. “Tonight, two Border Patrol agents face twenty-year prison sentences,” he began. “They were prosecuted after pursuing a Mexican citizen illegally in the United States who tried to smuggle hundreds of pounds of drugs into this country. The drug smuggler has been given immunity . . . and guess who’s in jail?” Correspondent Casey Wian walked through the incident with Ramos, who recounted his version of events: hearing gunfire, finding his fellow agent lying on the ground, and then firing his weapon when the suspect pointed what appeared to be a gun. “[The public] entrusted me to stop a drug smuggler and I did,” he said. CNN’s viewers were never told that Ramos had failed to report the shooting, that Compean had tampered with key evidence, or that Aldrete-Davila had attempted to surrender—facts that were readily available to anyone who had read the indictment or newspaper coverage of the case. At the end of his report, an indignant Dobbs weighed in. “There should be an investigation of the U.S. attorney’s office who would even suggest that . . . an illegal alien drug smuggler caught with the goods has rights superior to those of the agents that we depend on to enforce the law,” he said. He promised his audience of nearly 900,000 viewers that “this

broadcast will be following their story each and every day, and every step of the way, and we will be reporting to you on what in the world this government of ours is thinking.”

Dobbs made good on his pledge, highlighting the case on no fewer than 131 broadcasts in the eleven months that followed, including an hour-long special called “Border Betrayal.” Rather than delve into the specifics of the case, the show gave ample airtime to a rotation of family members, defense attorneys, lawmakers, and anti-illegal immigration activists who argued that the agents should never have been prosecuted. Dobbs injected his own nativist bent into the conversation, as when he reflected on whether the federal government had prosecuted Ramos and Compean because of “the influence of a powerful drug cartel” or was “blighting the lives of these two outstanding Border Patrol agents to appease the government of Mexico.” Wian’s reporting was no less melodramatic. “These two brave Border Patrol agents, who were only trying to do their job, are going to prison,” he announced after they were sentenced. Viewers were given information about how to donate to the agents’ defense funds and asked to respond to opinion polls whose loaded questions were foregone conclusions. (“Do you believe the Justice Department should be giving immunity to illegal alien drug smugglers in order to prosecute U.S. Border Patrol agents for breaking administrative regulations?” Dobbs asked. “Yes or no?”) The results, announced at the end of each broadcast, were always the same: At least 90 percent of callers sided with the agents.

Dobbs defended his show’s coverage of the case when I spoke with him this June, describing himself as an “advocacy journalist.” He explained, “The role of our broadcast is to put forward the facts on a host of issues that are often disregarded by mainstream media. My role is not to be neutral. I’ve always said that the price of objectivity is neutrality, and when it comes to the well-being of the American people or the national interest, I am incapable of objectivity. I bring to my audience issues that are carefully researched and reported.” When I asked Dobbs about specific facts that his program had omitted from its coverage, he said, “I believe the lack of accuracy and comprehensiveness is really an appropriate charge for the U.S. attorney.”

That did not keep the *Wall Street Journal* from denouncing Dobbs in an editorial for “weigh[ing] in repeatedly with pseudo-reporting designed to rile up his viewers rather than inform them of the facts.” (“Turning felons into political causes is the kind of stunt usually pulled by the likes of Al Sharpton,” the *Journal* added.) Fox News devoted less time to the case than CNN, and for the most part, the network struck a more skeptical tone. “We are a nation of laws,” Bill O’Reilly reminded Tom Tancredo, when the Colorado congressman came out in favor of presidential pardons for Ramos and Compean on *The O’Reilly Factor*. “These agents . . . shot the guy in the butt when he was running away.” But online, their case became a rallying cry, championed by conservative bloggers, anti-illegal immigration networks like [Grassfire.org](#), and news sites such as [WorldNetDaily.com](#), which saw the agents’ prosecution as further proof that the Bush administration was lax on border security and supported a “pro-amnesty” agenda. [Grassfire.org](#), which gathered hundreds of thousands of signatures for a petition advocating that the agents be pardoned, issued a press release citing the “unbreachable chasm” between its supporters and the Bush administration over the case. “All the talk of fences and high-tech equipment is cheap,” the press release read. “When it came time to stand and be counted on the side of our border agents, the President’s administration chose to side with a career illegal alien drug smuggler.”

As frustration with the prosecution built and was amplified on talk radio, Republican lawmakers who had staked their reputations on tough border-enforcement policies joined in, assailing the administration for not issuing the two agents a pardon. “Today is a day of infamy and disgrace,” announced California congressman Dana Rohrabacher in January, after Ramos and Compean reported to federal prison. “Shame on you, President Bush. You have betrayed us and our defenders.” He later threatened to call impeachment hearings if either man was killed in prison. U.S. representative Ted Poe, a former Houston judge who was famously tough on crime, argued in a series of interviews that “the government was on the wrong side” and should never have prosecuted the agents. He was not the only longtime Bush loyalist who was quick to align himself against the government’s case. During televised hearings in April on the controversial firings of eight U.S. attorneys, Senator John Cornyn spent part of his allotted time pressing Attorney General Alberto Gonzales to say whether he would agree to cooperate if the Senate Judiciary Committee held hearings on the agents’ prosecution. (In July the committee took up the question of whether the agents’ sentences were excessive.) California congressman Duncan Hunter won an enthusiastic round of applause at the Republican presidential debate in June when he said that he would pardon the agents immediately. A bill Hunter introduced, which calls for the agents’ convictions to be vacated, was signed by one hundred members of Congress.

Fueling anger over the case was a sealed government document that Ramos and Compean’s supporters heralded as “exculpatory evidence”: a DEA report that Judge Cardone had ruled as inadmissible at trial. The report, which was leaked to the press earlier this year, stated that on October 23, 2005—eight months after the shooting—the occupant of a stash house near Fabens claimed that a man he identified as Osvaldo Aldrete-Davila had dropped off a van containing 752 pounds of marijuana. The DEA had seized the drug load, but Aldrete-Davila has not been charged. Whether he has not been prosecuted because of a false eyewitness identification, insufficient evidence, or any other reason is unclear; since the report remains under seal and is part of an ongoing federal investigation, the U.S. attorney’s office cannot comment on the case. (It did issue a statement that read, in part, “This office will pursue criminal charges where there is prosecutable criminal activity and competent evidence to prove it.”) Critics pounced, charging that the government had given Aldrete-Davila a free pass so that he would not be further tarnished before trial. “It is obvious that U.S. attorney Johnny Sutton knowingly presented a false picture of the drug smuggler in order to justify his ruthless prosecution of Border Patrol agents Ramos and Compean,” said Rohrabacher. Still, whether Aldrete-Davila was a veteran trafficker or a first-time drug mule on the day he was shot, the facts that had convicted Ramos and Compean remained the same.

Stirring even more outrage was the news that Aldrete-Davila had filed a \$5 million claim against the federal government to cover the cost of future medical expenses. And then, after an episode of *America’s Most Wanted* focused on the case in February of this year, Ramos was attacked in prison. Federal officials were quick to point out that Ramos had asked to be placed in general population and had escaped with minor cuts and bruises. But Web sites that followed the case cast the incident in a more sinister light, reporting that he had been beaten by five inmates who had shouted, “*Maten a la migra*” (“Kill the Border Patrol”). Soon the blogosphere was buzzing with proof of yet another injustice; four Texas congressmen announced that the Department of Homeland Security had misled them during a briefing the previous September, when the lawmakers had sought to determine

whether the government's prosecution of the agents had been warranted. According to the congressmen, the department's Office of Inspector General had informed them that Ramos and Compean had made several damning admissions to investigators: that they had known Aldrete-Davila was unarmed and that they had "wanted to shoot a Mexican." U.S. representative John Culberson, of Houston, wondered if the agency's misrepresentations had been deliberate. "In my opinion, this false information was given to members of Congress to throw us off the scent and cover up what appears to be an unjust criminal prosecution," he said.

In the resulting furor, U.S. attorney Johnny Sutton made the rounds of talk shows to defend his office's prosecution of the two agents, offering an impassioned argument for why Ramos and Compean should be punished for their actions. As he tried to make his case to his critics, he became the target of their collective anger. "Dear Mr. President," began an open letter that Phyllis Schlafly, the founder of the Eagle Forum, wrote to Bush in April. "I am glad to see that you fired some U.S. attorneys. But you missed one: U.S. Attorney Johnny Sutton." Rohrabacher, who called for Sutton's resignation, accused him of being "a PR man for the drug lords." Photos of the prosecutor began to appear on the Internet, embellished with horns and the word "traitor" scrawled across his forehead. On talk radio and anti-illegal immigration Web sites, his detractors characterized him as "treasonous," "corrupt," "ruthless," "an agent of the Mexican government," "public enemy number one," and "pure evil." Blogs were filled with blistering attacks. "Shame on you, Sutton!" went a typical post. "Since when do illegal invaders to the USA have rights?" Or another: "Drop dead Johnny Sutton . . . This is the most wetback-loving administration this country has ever had!"

"On the day that everything happened, I was reacting to and trusting the actions of my fellow agent," Ramos told me from the medium-security penitentiary where he was being held in Yazoo City, Mississippi, in the half-hour that the Federal Bureau of Prisons allotted us to talk by phone. "If Mr. Compean felt that his life was in imminent danger and that he needed to pull his weapon and fire, I had to trust him. I had to make a split-second decision after hearing all those gunshots. I saw the smuggler turn around and make a threatening gesture at me, and I fired. At that moment, I felt he had a gun."

I had hoped to better understand Ramos's actions that day, and as he relayed his account of the shooting, he was persuasive. To hear him tell it, he had faced the sort of terrifying moment that might happen only once in a federal agent's career; he needed to use deadly force because he had believed that his life, and Compean's, was on the line. But the same question nagged at me that had bothered me from the very beginning: Why, with such a compelling story, had he not simply reported the shooting? Why keep quiet instead? His answer, which deflected the blame to his supervisor, struck me as disingenuous. "I guess I should have gone straight to Richards and told him, but he already knew," Ramos said. "Everyone was standing around the van, including Richards, talking about hearing shots fired. If I had told him to his face, he wouldn't have any plausible deniability, like he does now." (This contradicted the sworn testimony of Richards and the other agents who were present.) Besides, he wondered, what good would telling his supervisor have done? "The smuggler was gone," he said. "There was nothing we could do about him anymore."

“If they had come forward and said, ‘A dope dealer just pointed a gun at us, and we shot at him fifteen times,’ no grand jury in America would ever have indicted them for that,” Sutton observed one afternoon as we talked at the U.S. attorney’s office in Austin, overlooking the Capitol. “But we don’t hear about a ‘shiny object’ until a month later. They knew they had shot him, and they knew he was unarmed. So instead of reporting the shooting, they covered it up, destroyed evidence, lied about it, and filed a false report. A prosecutor can’t say, ‘That’s acceptable behavior,’ and look the other way.”

“The evidence is overwhelming that these guys committed a very serious crime,” Sutton said.

Sutton, who served as Bush’s criminal justice policy director when he was governor and worked on his transition team at the Department of Justice after the 2000 election, was an unlikely target for conservatives. He had been devastated by the letter from Schlafly, whom he described as “a conservative icon.” He insisted that he was not soft on drug crimes, as his detractors had made him out to be, pointing out that his office led the nation last year in narcotics prosecutions and was second in illegal immigration cases. Yet he has received death threats for his role in the case, and his e-mail and voice mail are often filled with irate messages. “All people have heard is that two American heroes are in prison for doing their job and that a drug dealer has been set free,” he said. “If those were the facts, I’d be furious too. But the evidence is overwhelming that these guys committed a very serious crime.” If anyone was at fault for the fact that Aldrete-Davila was not in prison, he said, it was the agents. “They didn’t put handcuffs on him when they had the chance,” he explained. “They had him at gunpoint, at the bottom of a steep ditch, with his hands in the air. Instead of apprehending him, Compean tried to hit him over the head with the butt of a shotgun. Even after they shot him, they holstered their weapons and walked away.”

Sitting beneath half a dozen framed photos of himself with the president over the years, Sutton marveled at how media coverage had allowed the case to take on a life of its own. Lou Dobbs and others “with big microphones,” he noted, had repeatedly reminded viewers that Ramos had been nominated by his co-workers in 2005 for Border Patrol Agent of the Year. Yet they never mentioned that he had been arrested two times for domestic violence, in 1996 and 2002, and suspended from the Border Patrol, in 2003, for not reporting what had happened. (The charges were dropped, but Ramos was required to take a court-mandated anger management class.) More frustrating, he said, were the allegations that he was eager to lock up Border Patrol agents for doing their jobs. “Agents have shot their weapons at least fourteen times in the El Paso sector since I’ve been U.S. attorney,” Sutton said. “On three occasions, they killed the suspect. Every time, the agents came forward and explained why they had used deadly force. And in every instance—except this one—it was ruled justifiable.”

It was a case like *U.S. v. Ramos and Compean*, he said, where the defendants were federal agents, that tested our most basic principles. “What makes America great is the rule of law,” he said, leaning forward in his chair to emphasize his point. “It applies to everyone, no matter how powerful or important they may be. We give law enforcement the benefit of the doubt because they have to make extraordinarily difficult decisions in life-or-death situations. But when they do wrong, they have to be held accountable.”

His message fell on deaf ears on the last day of June, when roughly two hundred protesters amassed outside his San Antonio office to demand his resignation. Volunteers with the

Minutemen and other anti-illegal immigrant organizations gathered on a grassy hill below the federal building holding handmade signs that read “Deport Johnny Sutton,” “Johnny Sutton: Best Justice the Peso Can Buy!” “Free Our Heroes!” “Prosecute Invaders, Not Defenders,” and “Amnesty for Ramos and Compean.” American flags fluttered in the breeze beside posters that pictured Sutton wearing devil’s horns. A woman walked through the crowd dragging a Mexican flag on the ground, asking people around her to step on it. A biker in an “America: Love It or Leave It” T-shirt shouted at the handful of counterprotesters across the street, who held up “Bad Cops Belong in Jail” and “No One Is Above the Law” placards. “Where are your green cards?” he yelled. “Go back to Mexico!” others screamed. A succession of speakers called for Sutton to step down, including Monica Ramos, whose husband, like Compean, is appealing his conviction.

Before the demonstration came to a close with the Pledge of Allegiance, a protester climbed into the back of a pickup and grabbed a bullhorn. “There are four kinds of boxes—the soapbox, the jury box, the ballot box, and the cartridge box,” he roared. “We have seen a misuse of the jury box. We’re going to use the ballot box to get rid of you. But don’t test our use of the last box.”